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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

ROSEBUD SIOUX TRIBE, <i>et al.</i> ,	CV 18-118-GF-BMM
Plaintiffs,	
v.	<b>DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR CLARIFICATION</b>
DONALD J. TRUMP, <i>et al.</i> ,	
Defendants,	
and	
TC ENERGY CORP., <i>et al.</i> ,	
Defendant-Intervenors.	

On October 16, 2020, the Court issued an order holding that the 2019 Permit issued by the President authorized only the 1.2-mile segment of the Keystone XL Pipeline. *See* Oct. 16, 2020 Order, ECF No. 167 at 3-7. Based in part on that holding, the Court resolved several of the motions pending before it. Specifically, the Court denied the motions for a temporary restraining order and for a preliminary injunction. *Id.* at 7-12. And for similar reasons, Court resolved the merits of some of the claims by granting summary judgment to Defendants on Claims Five and Six (the mineral claims). *See id.* at 13-14. Plaintiffs now seek clarification that some of those claims partially survive the Court’s ruling. *See* Pls.’ Mot. for Clarification (“Pls.’ Mot.”), ECF No. 168.

That the motion for clarification should be denied because the only claims left to be resolved on summary judgment are the constitutional claims. In arguing that some aspect of the mineral claims survive, Plaintiffs point to language in the Court’s order stating that “[t]he Court will grant summary judgment *in part* for Federal Defendants and TC Energy on those claims.” Oct. 16, 2020 Order at 14 (emphasis added). But the very next sentence states: “What remains of Plaintiffs’ Motion for Summary Judgement is their claim based on the U.S. Constitution.” *Id.* The order then goes on to instruct the parties to submit additional arguments regarding only those constitutional issues (which the parties have done). *Id.* at 20-22. Thus, read in context, Defendants understand the Court’s order to mean that

the mineral claims were resolved in Defendants' favor, and the only claims left to be resolved are the constitutional claims.

Respectfully submitted this 25th day of November, 2020,

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(d)(2)(E), the foregoing brief is proportionately spaced, has a typeface of 14 points, and contains 281 words, excluding the tables, caption, signature, certificate of compliance, and certificate of service.

/s/ *Luther L. Hajek*  
LUTHER L. HAJEK  
U.S. Department of Justice

**CERTIFICATE OF SERVICE**

I hereby certify that on November 25, 2020, a copy of the foregoing Defendants' Response to Plaintiffs' Motion for Clarification was served on all counsel of record via the Court's CM/ECF system.

/s/ Luther L. Hajek  
LUTHER L. HAJEK  
U.S. Department of Justice